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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-----------------------|------------------|
| 10/644,961 | 08/21/2003 | Jae Seung Lee | 1594.1287 | 7591 |
| 21171 | 7590 | 06/08/2006 | EXAMINER | |
| STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005 | | | HANSEN, JAMES ORVILLE | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3637 | |

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/644,961

Applicant(s)

LEE ET AL.

Examiner

James O. Hansen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 3/24/06 & 12/6/05.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11, 14, 15, 17, 19, 20, 22-50 and 52-62 is/are pending in the application.
- 4a) Of the above claim(s) 9, 19, 20, 22, 23, 34, 47-50 and 62 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11, 14, 15, 17, 24-33, 35-46 and 52-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Claim 62 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on March 24, 2006.

2. Claims 9, 19, 20, 22, 23, 34 & 47-50 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on March 24, 2006. It is noted that applicant withdrew claims 9, 19, 34 and 47-50, while the examiner further withdrew claims 20, 22 and 23 since these claims read on the non-elected embodiment of Species IV.

3. Applicant's election with traverse of Species I in the reply filed on is acknowledged. The traversal is on the ground(s) that no basis is provided in the assertion that the species represent independent or distinct species. This is not found persuasive because the figures clearly depict distinct structural variations constituting varying embodiments as represented in the claims, i.e., Species I shows an inter-casing structure with a cabinet chassis; Species II shows an inter-casing structure with a magnetic panel and a cabinet chassis incorporating an inner flange; Species III shows an inter-casing structure with a pipe interior of the support flange and a cabinet chassis incorporating an inner flange; while Species IV shows an inter-casing structure with a double bend structure and a cabinet chassis incorporating an inner flange. Accordingly, the requirement is still deemed proper and is therefore made **FINAL**. [It is noted that the proper status identifiers (relating to the claims) need to be utilized in the response to this office action – some claims still marked “Original”].

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6, 24, 25, 27, 28, 58 & 60 are rejected under 35 U.S.C. 102(b) as being anticipated by Franck [U.S. Patent No. 3,835,660]. Franck (figures 1-7E) teaches of a cabinet (10) for recessed refrigerators, comprising: an outer casing (15) to define an appearance of the cabinet, the outer casing being a box- shaped body open at a front thereof (note fig. 2), an integrated single inner casing (L) installed in the outer casing, with a predetermined space defined between the inner and outer casings (fig. 5), the integrated single inner casing defining therein at least two storage compartments (11, 12) open at fronts thereof, with a partition wall (defined by elements 16 & 17 for example) between the at least two storage compartments to maintain a predetermined gap between the storage compartments; and a “support panel” (reasonably interpreted as either element 20 or 20a so far as broadly recited) disposed within the partition wall. The inner casing comprising a front flange (as shown in figures 5 & 6 for example) that extends from a front edge of the inner casing toward a front edge of the outer casing to cover a front of the space defined between the inner and outer casings as readily apparent to the examiner. The cabinet further comprising at least one partition wall structure (22 – a hot pipe) provided in back of a front end surface of the partition wall. The cabinet further comprising a support member (20a in the sense that element 20 is the support panel – in view of the claimed dependency) installed in the partition wall at a position in back of the at least

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one partition wall structure to support the partition wall structure. The partition wall structure comprises a magnetic member made of magnetic material (20a – in view of the claimed dependency). The support panel (20a) is installed in the partition wall at a position between a rear surface of the support member (20) and an inner surface of a rear wall of the outer casing. The support panel being placed in the partition wall at a position eccentric to the wall (note fig. 3 for example) as best understood.

6. Claims 32, 33, 37 & 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Silva et al., [U.S. Patent No. 5,284,023]. Silva (figures 1-13) teaches of a cabinet (10) for recessed refrigerators, comprising: an outer casing (32) to define an appearance of the cabinet, the outer casing being open at a front thereof (note fig. 2) and stepped at a top (fig. 2) to form a lower step at a front area of the top (viewed as the peripheral stepped lip along the top portion of the cabinet, the outer casing being formed as a single-piece construction as readily apparent to the examiner, an integrated single inner casing (30) installed in the outer casing, with a predetermined space defined between the inner and outer casings (fig. 3), the integrated single inner casing defining therein at least one storage compartment (note fig. 2) open at a front thereof, and a cover housing (50) provided on the lower step to define a machine room so far as broadly defined. The cabinet further including a cabinet chassis (26, 28 for example) mounted along both an outer surface of the outer casing and the cover housing to finish a front of the cabinet. The cabinet further comprising an intermediate chassis (24, 25 for example) provided to finish a front of a space between the cover housing and the at least one storage compartment, the chassis is bent at an end (figs. 2 & 4) toward a lower edge of the cover housing to cover the lower edge of the cover housing.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 26 & 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franck. Franck teaches applicant's inventive claimed structure as disclosed above, but does not show the support panel as comprising at least one opening. However, the position is taken that one of ordinary skill in the art would deem obvious to incorporate at least one if not more openings into a panel structure for the purpose of providing a lighter structure that retains the overall strength and stability of the panel. As such, adding an opening to a panel is viewed as not establishing any new or unobvious functional relationship between the opening and the substrate upon which it is located and therefore is not germane to patentability of the device itself.

9. Claims 7 & 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franck in view of Strufe [U.S. Patent No. 1,685,248]. Franck teaches applicant's inventive claimed structure as disclosed above, but does not show a cabinet chassis [and its particulars as prescribed by applicant] mounted along an outer surface of the outer casing to provide a finished appearance. Strufe (figures 1-5) is cited as an evidence reference to show that it was known in the art at the time the invention was made to provide a cabinet chassis (shown in fig. 4 and elements F) to a refrigerator. The chassis comprising a first part (28) extending from the outer casing in a first direction, a second part (33) extending from the first part and away from the cabinet, and a third part (nails as shown in fig. 1) extending from the second part and opposite

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the first direction. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the cabinet of Franck so as to incorporate a cabinet chassis as taught by Strufe because this arrangement would provide Franck with the means to provide an attractive exterior appearance to the cabinet if mounted within a recess of a wall depending upon the personal needs or desire of the user.

10. Claims 30 & 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franck in view of Wetherholt et al., [U.S. Patent No. 5,908,229]. Franck teaches applicant's inventive claimed structure as disclosed above, but does not show at least one sealing member provided between the support member and the inner casing. Wetherholt (figures 1-5) teaches the use of a sealing member (viewed as the sealing blocks utilized in figure 2) for the purpose of retaining the insulation material within the cabinet body. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the cabinet of Franck so as to incorporate a sealing member as taught by Wetherholt because this arrangement would provide Franck with the means to inhibit the flow of insulation material from areas or spaces not requiring the material.

11. Claims 39-41, 52-57 & 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Franck in view of Solak et al., [U.S. Patent No. 4,970,874]. Franck teaches applicant's inventive claimed structure as disclosed above, but does not show the cabinet installed in a recess of a wall or show a cabinet chassis mounted along the cabinet to cover a gap between the cabinet and the wall. Solak (figures 1-15) is cited as an evidence reference to show that it was known in the art at the time the invention was made to provide a recessed wall (wall of cabinets with a recess for a refrigerator)

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for a refrigerator and to provide a cabinet chassis (cover panels) for enhancing the aesthetics of the cabinet relative to the wall. The chassis comprising first, second and third parts (note figures 4-14) as prescribed by applicant. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to place the cabinet of Franck within a recess and to incorporate a cabinet chassis as taught by Solak because this arrangement would provide Franck with the means to provide an attractive exterior appearance to the cabinet if mounted within a recess depending upon the personal needs or desire of the user.

12. Claims 33, 35 & 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Silva et al., in view of Solak et al. Silva teaches applicant's inventive claimed structure as disclosed above, but does not show a cabinet chassis mounted along the cabinet to finish a front of the cabinet. Solak (figures 1-15) is cited as an evidence reference to show that it was known in the art at the time the invention was made to provide a cabinet chassis (fig. 4) for enhancing the aesthetics of the cabinet relative to its surroundings. The chassis comprising a bent part (126) that is bent towards a wall that is capable of covering a gap, and includes L-shaped brackets (134) provided at the corners of the a cover housing. Accordingly, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a cabinet chassis as taught by Solak because this arrangement would provide Silva with the means to provide an attractive exterior appearance to the cabinet if mounted within a recess depending upon the personal needs or desire of the user.

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13. Claims 11, 14, 15, 17, 29 & 42-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wetherholt in view of Franck. Wetherholt teaches of a cabinet (12) for recessed refrigerators, comprising: an outer casing (40) to define an appearance of the cabinet, the outer casing being a box-shaped body open at a front thereof (fig. 2); an inner casing (defined by 42, 44) installed in the outer casing, with a predetermined space defined between the inner and outer casings (fig. 2), the inner casing defining therein at least two storage compartments (14, 16) open at respective fronts thereof, and a partition wall (18) separating the two compartments, with a front flange (46) extending from a front edge of the inner casing toward a front edge of the outer casing to cover a front of the space defined between the inner and outer casings; and at least one inter-casing structure (viewed as the sealing blocks as shown in fig. 2) provided in the space defined between the inner and outer casings at a position adjacent to the front flange of the inner casing, wherein the outer casing comprises a support flange (note fig. 2) that extends toward the inner casing adjacent to the at least one inter-casing structure to support the inter-casing structure, and the at least one inter-casing structure comprises a sealing member interposed between the front flange of the inner casing and the support flange of the outer casing to prevent a leakage of urethane foam (50) that fills the space between the outer casing and inner casing. Wetherholt teaches applicant's inventive claimed structure as disclosed above, but does not show the inner cases and the front surface section as being integrally formed. As to the integrally formed member, Franck is cited for the teaching of a pair of inner cases (fig. 5) having a partition wall and a front surface section (fig. 3) in an analogous art, wherein the inner cases and the front surface section are integrally formed as an integrated inner case. Accordingly, the position is taken that it would have been

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obvious to a person of ordinary skill in the art at the time the invention was made to modify the front surface section of Wetherholt so as to be integrally formed with the inner cases as taught by Franck because this arrangement would require less manipulation by a worker since an integrally formed structure would eliminate an additional securing/fastening process in forming the shell of the refrigerator.

Additionally, the position is taken that the use of "urethane" as a foamed in insulation for refrigerators is well known. Applicant's prior art admission (figures 1-3 and disclosure of pages 1-4) is cited as evidence to the fact that it was known at the time the invention was made to use urethane as in insulation material within a refrigerator. As such, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to vary the type of insulation used by the prior art in view of applicant's disclosure of urethane's use as a refrigerator insulator because such a modification would have involved the mere substitution of one known insulator for another, such a substitution is not viewed as providing a new or unobvious use of a material with respect to the structure upon which it is located for patentability purposes. Furthermore, the maintained desired space between the extension and the front surface of the integral inner case may receive at least one hot pipe to prevent a dewing phenomenon from occurring at a front end of the refrigerator. It is noted that Franck utilizes hot pipes (22 e.g.,) along the front surfaces of the refrigerator for this purpose. Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate hot pipes within the spaces formed between the front surfaces and extensions of Wetherholt in view of Franck because this arrangement would effectively raise the temperature of the mullion sufficiently to prevent condensation of moisture on the mullion (col. 3 of Franck).

Double Patenting

14. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

15. Claims 7,8, 11, 14, 15, 17, 29, 31, 39-46, 52-57 & 61 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-16 of copending Application No. 10/385,566. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications claim a cabinet for recessed refrigerators including

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particulars of the inner and outer casings defining the cabinet along with a cabinet chassis.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

16. Claims 32 & 33 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 12 of copending Application No. 10/644,937. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications claim a cabinet incorporating a machine room on the top of the cabinet.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

17. Claims 1-6, 24-28, 30 & 58-60 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-16 of copending Application No. 10/385,566 in view of Banicevic et al., [U.S. Patent No. 6,036,294]. The copending application claims corresponding elements as noted above, but does not account for a support panel. Banicevic (figures 1-6) is cited as an evidence reference for the incorporation of a support panel (15) within a partitioning member dividing refrigerator compartments. As such, the position is taken that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize a support panel within a partitioning wall as taught by Banicevic because such a modification would provide reinforced support between side walls of the '566's cabinet [note col. 4 of Banicevic] thereby enhancing the stability and rigidity of the structure.

This is a provisional obviousness-type double patenting rejection.

Response to Arguments


18. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James O. Hansen whose telephone number is 571-272-6866. The examiner can be reached on Monday-Friday between 8-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



James O. Hansen
Primary Examiner
Art Unit 3637

JOH
June 6, 2006